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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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22907	7590	07/07/2006	EXAMINER	
BANNER & WITCOFF 1001 G STREET N W SUITE 1100 WASHINGTON, DC 20001			VU, NGOC K	
			ART UNIT	PAPER NUMBER
			2623	

DATE MAILED: 07/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/893,523

Applicant(s)

NELGER ET AL.

Examiner

Ngoc K. Vu

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31,32 and 36-47 is/are rejected.
- 7) ☒ Claim(s) 33-35 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Applicant's arguments filed 12/1/2005 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

2. Claim 38 is objected to because of the following informalities: it appears that the term "authorised" is typographical error. Please change the term "authorised" into "authorized".
Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 32 is indefinite because there is no antecedent basis for the limitation "said control messages" in line 1.

Claims 33-35 and 39-47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation "the plurality of control messages" is recited in claim 33, and the limitation "the control messages" is recited in claims 34-35. It is unclear which "a plurality of control messages" as previously defined in claim 31 that the limitations "the plurality of control messages" and "the control messages" referred to.

Regarding claim 39 recites the limitations "a plurality of control messages" in lines 5-6, "control messages" in line 11. It is unclear whether the limitations "control messages" recited in these lines are the same.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 31, 32, 36, 38, 39 and 45 are rejected under 35 U.S.C. 102(e) as being anticipated by Wasilewski et al. (U.S. 6,157,719 A).

Regarding claim 31, Wasilewski teaches a method for use in a conditional access system, in which a first scrambled broadcast stream (105) is transmitted to a first decoder (one of decoders 113) by a first service provider (i.e., provider 103 providing first purchased service) in a first region and a second scrambled broadcast stream (105) is transmitted to a second decoder (another 113) by a second service provider (i.e., provider 103 providing second purchased service) in a second region, said first and second decoders being operable to receive a plurality of control messages (ECMs) including information for descrambling the first and second broadcast streams (see col. 4, lines 20-35; figure 1), the method comprising: the second service provider (103 providing second purchased service) receiving from a user a request for access to the second broadcast stream (i.e., request to view impulse event) at the second decoder (see col. 30, lines 41-61; col. 31, lines 1-10); the second service provider (provider 103 providing second purchased service) checking whether the user is authorized to access the second broadcast stream, and in the event the user is authorized to access the second broadcast stream, the second service provider transmitting a plurality of control messages (EMMs or authorization information) to said second decoder separately from the second

Art Unit: 2623

broadcast stream (EMMs may be sent via a separate channel, e.g., an out-of-band RF link) (see col. 12, lines 22-35; col. 5, lines 6-11).

Regarding claim 32, the recited limitation reads on using a control word from information contained in ECM and information from authorization information stored in the decoder 113 as taught by Wasilewski (see col. 4, lines 50-62).

Regarding claim 36, Wasilewski teaches that the first decoder (one of the decoders 113) is arranged to receive control messages (ECMs) transmitted with the first broadcast stream and second decoder (another decoder 113) is arranged to receive control messages (EMMs) separate from the second broadcast stream (EMMs may be sent via a separate channel, e.g., an out-of-band RF link) (see col. 4, lines 26-35; col. 5, lines 1-10).

Regarding claim 38, Wasilewski teaches checking that the user is authorized to access the second broadcast stream comprises the second service provider checking that a subscription arrangement exists between the user and the first service provider (i.e., monthly service) (see col. 4-5, lines 67-6).

Regarding claim 39, claim 39 recites similar limitations of claim 31, therefore, it is rejected for the same reasons. See rejection of claim 31 above.

Regarding claim 45, the limitations read on that EMMs modify an entitlement agent's authorization information are made in response to modification information provided by the entitlement agent so that the system prevents the unauthorized decoder from accessing the broadcast stream as taught by Wasilewski (see col. 11, lines 6-23).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 2623

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 37, 40-44 and 46-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wasilewski et al. (U.S. 6,157,719 A).

Regarding claims 37 and 40-44, Wasilewski teaches receiving a request from a user, for example, the customer orders an impulse event from another decoder 113 - col. 30, lines 41-61; col. 31, lines 1-10). Wasilewski does not explicitly disclose a smart card associated with each decoder and the smart card is a software/software smart card. Official Notice is taken that utilizing smart card associated with a decoder for storing data relating the entitlements of the user is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Wasilewski by including a smart card associated with a decoder for purpose of storing data relating the entitlements of the user. Official Notice is taken that software/virtual smart card technology is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Wasilewski by utilizing software/virtual smart card instead of a physical smart card for the advantages of reduce cost.

Regarding claims 46-47, Wasilewski does not teach removing the user's subscription right through ECMs sent to the first decoder. Official Notice is taken that removing ECM or EMM data component from the data stream to ensure that unauthorized user can not access descrambled entitlement is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Wasilewski by removing ECM or EMM data component from the data stream to ensure that unauthorized user can not access descrambled entitlement for security purpose.

Allowable Subject Matter

9. Claims 33-35 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 571-272-7306. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Ngoc K. Vu
Primary Examiner
Art Unit 2623

July 5, 2006